

CHAPTER FIVE

ORDINANCE ADMINISTRATION

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A. Introduction and General Administrative Recommendations

Oversight of the administration of the floodplain management ordinance adopted by the community is an important role of the NFIP contact. The local community has the primary responsibility to ensure that new floodplain development conforms to the provisions of the ordinance. MDE and FEMA have limited involvement in the daily permitting decisions at the local level.

The local community must have adequate mechanisms to ensure that all development is in compliance with the ordinance. This includes collecting the necessary information to make permit decisions, putting appropriate conditions on the permit, assuring that construction conforms to the ordinance, and maintaining the necessary documentation for the permit files. Thorough and proper documentation of the files is a requirement for continued eligibility in the NFIP. Floodplain permit records need to be maintained for reference in case any questions arise about floodplain development since the community's entry into the program.

Forms which provide the necessary documentation for floodplain permit files have been developed by MDE and are available to all Maryland communities. Each community should use these forms as needed in the permit process, or find a comparable method of supporting permitting decisions in writing. Community Assistance Visits (CAV), conducted by MDE, include a review of floodplain permit files to assure that communities are issuing permits in accordance with the documentation requirements in the community's floodplain management ordinance.

A separate list of permits issued in the 100-year floodplain should be kept to facilitate review. A system of flagging floodplain permits should be developed so they receive special attention during inspections. For example, permit clerks can use an abbreviation, such as "FP", or highlight floodplain information on the permit. Some communities maintain a simple database of floodplain permits and the lowest floor elevation for all permitted structures. Also, the separate list will assist the community in completing the FEMA Biennial Report which should be completed and returned to FEMA promptly upon receipt.

B. Information for the Permit Application

Permit decisions must be based on complete information. The permit application should contain all of the necessary information to issue a permit. If it does not, no permit should be issued until such information is known. It is not necessary to modify the standard permit form used by the community, as long as the necessary ancillary information is provided in the permit file. Issuance of the local permit is not recommended until evidence that other necessary permits have been obtained is provided by the applicant.

All floodplain permit applications must contain sufficient information to allow determination of the location of the proposed activity with regard to floodway and floodplain boundaries. All of this information can be required on a site plan including elevations certified by an engineer or surveyor, or sufficient site information provided for the permitting official to make an accurate determination. At a minimum, a scaled drawing by the applicant to show the proposed activity and distances to landmarks to allow an accurate floodplain delineation are required.

The site plan filed with the permit application should include property lines, structures (existing and proposed), location of any waterbodies, 100-year floodplain boundary, designated floodway boundary, 100-year flood elevations and the FPE, proposed building and grade elevations for all structures (including method of elevation), existing and proposed roads, and any other accessory uses of land located below the 100-year flood elevation. The permitting official may assist the applicant in determining this information, then include it as part of the permit file.

Detailed building plans should be reviewed to determine the elevation of the lowest floor and method of elevation. The plans should be required to show how the venting requirement will be met through vent placement and cumulative net open area of the vents. Typical foundation vents are only about 50% efficient at passing water, but several types have been approved as being more efficient. A note should be placed on the plans regarding the requirement to elevate utilities to or above the FPE.

C. Making Floodplain Determinations

The permitting official must determine if the proposed site is in the 100-year floodplain, using the maps supplied by FEMA and the completed site plan. If a floodway has been mapped for the watercourse, the Floodway Map should be consulted to assure that no proposed structures or fill encroach on the floodway. The Floodway Map and the profiles in the FIS will provide 100-year flood elevations. The boundary of the 100-year floodplain and floodway (if available) must be shown on the site plan to document the file. The permitting official must verify the accuracy of a determination submitted by surveyor or engineer.

An important function of the permitting official in promoting good floodplain management is working with the applicant to avoid or minimize impacts to the floodplain. The information is available to recommend changes that could have both immediate and long-term benefits to the community, the applicant, and future occupants of the structure. If the parcel will accommodate the proposed structure in an area outside the 100-year floodplain, the floodplain requirements will not have to be followed. In addition, the structure will be less likely to have flood damage and the federal mandate for flood insurance will not be invoked.

A certified elevation of the lowest point where a proposed structure will touch the natural ground is recommended. This information will allow the floodplain determination to be based on actual elevation. If the natural grade at a site is above the floodplain elevation, the structure does not need to meet floodplain development requirements. The property owner should request a Letter of Map Amendment from FEMA to have the floodplain boundary changed to exclude the structure. Otherwise, flood insurance for the structure will still be required by federally insured lenders. The decision to remove a site that is in the delineated 100-year floodplain must be documented in the file by elevations shown on the site plan and signed and sealed by a registered surveyor or engineer.

In unnumbered A-zones, no water surface elevations are provided for the 100-year flood. Other data should be used to provide water surface elevations for development permits. In many cases, no additional data will be available, and a surveyor or engineer must develop a 100-year flood elevation from the point-on-the-boundary method. It is the applicant's responsibility to present this data as part of the application. MDE or the Maryland State Highway Administration may be able to provide assistance if nearby stream crossings were designed using 100-year flood elevations. In subdivisions of either five acres, five lots, or more, a detailed engineering study is required in the State Model Ordinance. The model ordinance requires a 50 foot setback from the top of bank for any development along unmapped streams.

D. Suggested Steps in Floodplain Permit Review and Inspection

The following steps were devised by the NFIP Coordinating Office at MDE to provide guidance to communities in the review of permit applications.

Step 1 - Is proposed development in the **floodplain**? Check FIRM and elevation from site plan (if provided). If yes, the permit must comply with the floodplain ordinance.

Step 2 - Is proposed development in **FLOODWAY**? Check Floodway Map, if applicable. Floodway development should be avoided and no increase in flood heights may result. No new buildings or fill in the floodway.

Step 3 - Is proposed development in a **V-zone**? Check FIRM and site elevation. If yes, the permit must comply with special V-zone construction requirements in the floodplain ordinance.

Step 4 - Does the development require a **State permit**? If so, refer applicant to the Water Management Administration, MDE.

Step 5 - Avoidance and minimization. Can proposed development be modified to **avoid** floodplain? If not, can impacts be further **minimized**? Are required setbacks achieved? Review and modify plans with applicant in an attempt to avoid and minimize flood hazard.

Step 6 - Are structures proposed that will require **elevation** (new structures, substantial improvements, additions)? Complete a substantial improvement worksheet, if necessary. Determine the **Flood Protection Elevation (FPE)** from the FIRM or Flood Insurance Study, and record it for the lowest floor on the Permit. Have a **Certificate of Compliance** signed and supply applicant with a blank **Elevation Certificate**.

Step 7 - Are structures or enclosed areas below the FPE to be permitted (sheds, garages, storage areas, crawl spaces)? Have applicant complete a **Nonconversion Agreement** and record a **Declaration of Land Restriction**, if needed, before permit is issued. Determine how the venting requirement will be met and include specifications on plans. Ensure that uses will be limited to parking of vehicles, limited storage, and access.

Step 8 - For structures, review the **Permitted Items Checklist** with applicant. Assure full compliance with the floodplain ordinance. Approve and issue permit.

Step 9 - Record permit in log of floodplain permits, and assure that all necessary documents are in files.

Step 10 - Inspect construction to ensure compliance. **Elevation Certificate** should be required prior to or during framing inspection. **Permitted Items Checklist** should be completed during the final inspection to assure proper venting, no electrical, mechanical devices below FPE, anchoring of gas tanks, etc. Document file with notes of final inspection or Checklist.

Step 11 - Issue Certificate of Compliance and Occupancy only after all documentation is in file and final inspection shows compliance with floodplain ordinance.

E. Documentation of the Permit Files

FEMA and WRA have developed forms to assist communities in providing the correct documentation in their permitting activities. Each form is described below with suggested uses. The forms are found in the appendix. Communities should make use of these forms when appropriate because they provide the permit file documentation required by the ordinance.

1. Agreement To Supply Elevation Certificate

This form requires applicant to sign an acknowledgement that an Elevation Certificate must be completed by a registered engineer or surveyor, and a copy returned before a Certificate of Occupancy will be issued, or sooner by policy. This form can be attached to your regular permit form to make it a floodplain permit whenever a new structure or substantial improvement will need to be elevated. It will document the level of the 100-year flood from the FIRM, the Flood Protection Elevation (FPE), and that the applicant was notified and agreed to supply an Elevation Certificate for your records. We recommend that original form should go in file, with copy returned to the applicant with a blank elevation certificate. The applicant should be advised to return the elevation certificate as soon as the supporting members of the lowest floor are in place, since he warrants the sufficiency of the elevation.

2. Substantial Improvement Worksheet

This worksheet facilitates computation of market value and cost of improvement for substantial improvement for additions, improvements, repairs, or rehabilitations to document the files. It provides two ways to calculate present market value; (1) full assessed valuation from Assessor's Office, or (2) market appraisal by a registered real estate appraiser; and two ways to calculate cost of improvement; (1) the actual cost, if an estimate from a contractor is available, or (2) a square foot estimated building cost for the type of construction. Must use fair market value for both labor and materials. Special notes on the form caution that land value is not used in the calculations, and that (1) substantial improvement by an addition may not trigger elevation of the existing part if wall is left intact, with only a doorway to addition; (2) all additions greater than 250 square feet in nontidal (riverine) floodplains must be elevated due to State regulations; (3) costs to correct code violations existing prior to the improvement may be subtracted from cost of improvement; and (4) alterations to historic structures may be exempted from full elevation by variance, provided the structure maintains its historic designation after the substantial improvement.

3. Nonconversion Agreement

Signed agreement ensures that enclosures permitted below the FPE meet the use and construction requirements of the NFIP and will not be converted to living space later. It is issued for a permit, conditioned permit, or variance for garages, sheds, and some crawl spaces. It specifies all conditions under which enclosed areas below FPE may be permitted and the construction standards which apply to them. An agreement in which the property owner agrees to all permit conditions by signing the document, which can be useful in resolving later violations, is created. We recommend that this form be used for foundation enclosures exceeding five feet in height. The original should be placed in the file, and a copy supplied to the applicant before a permit is issued.

4. Declaration of Land Restriction

The ordinance mandates a recordation requirement against the deed to the property or a Declaration of Land Restriction to notify future owners of floodplain restrictions to be placed on accessory structures or foundation enclosures (crawl spaces). For accessory structures 300 square feet or less, the recordation requirement may be waived, but for anything larger, and for foundation enclosures 5 feet or more in height, the Conditioned Permit procedure requires a notification against the deed. The Declaration of Land Restriction is designed to be an acceptable recordation document in any courthouse in the State to meet this requirement. Through a title search, it will convey information on floodplain restrictions to all future owners of the property; empower the permitting authority to correct any violation to the permit conditions; and notify the property owner of the effect on flood insurance if conditions cease to be met. To do this, it must be filled out completely with information as to the structure to which the restrictions apply, and the Flood Protection Elevation, and other restrictions. The property owner must have the Declaration of Land Restriction recorded and present evidence to permit official before a permit may be issued.

5. Permitted Items Below FPE Checklist

The checklist details what can and cannot be placed below the FPE, especially in enclosed areas below the FPE, with lists for both A-zones and V-zones to meet NFIP requirements. It should be used during plan review to assure that the venting requirement is met and no electrical outlets or devices are planned below the FPE. A copy should be provided to applicant initially so that these requirements can be incorporated into building plans. The form can be used during final inspection to determine if construction meets requirements before Certificate of Occupancy is issued.

6. Elevation Certificate

FEMA developed this form to provide certification of the lowest floor for ordinance compliance and for flood insurance rating purposes. It is the responsibility of the permit official to check incoming elevation certificates to assure that they are signed and sealed by a registered surveyor or engineer and completely filled out for the property being certified (Sect. A), with community information (Sect. B) completed; Sect. C should have both Item 2 and Item 6 elevations certified; and Item 1, Sect C should be completed by referring to the diagrams attached. The elevation certificate must be an as-built certification, done after the support system for the lowest floor is in place. The owner should keep original, with a copy placed in the permit file to be maintained as a permanent record, as required under the NFIP.

7. Floodproofing Certificate

This form was developed by FEMA to certify how a nonresidential structure is to be dry floodproofed, when this is used in lieu of elevation. The design must be reviewed to assure that it meets the minimum dry floodproofing standards

required by FEMA and it must be certified by an architect or engineer prior to the issuance of a permit. Please note that floodproofing is not permitted by State regulations in the nontidal floodplain and therefore cannot be accepted by the community. Inspectors must insure that the approved design is implemented during construction.

8. V-Zone Certificate

This form must be used to satisfy the coastal high hazard area (V-zone) certification requirements of the NFIP, especially the foundation certification required under Section III. Section II concerns elevation of the bottom of the lowest horizontal structural member and embedment depth of pilings. Section III concerns V-zone anchoring requirements and must be certified by a registered engineer or architect knowledgeable in building designs to meet V-zone water and wind load requirements. Section IV need not be certified if the area below the FPE is left open or enclosed by light lattice or screening. Existing buildings in V-zones may not be substantially improved or expanded vertically or horizontally without structural engineering certification that the existing foundation system is capable of supporting the existing building and the proposed improvement under the 100-year storm wind and water loads. All V-zone construction must be beyond the reach of mean high tide and must undergo an alternatives analysis. The use of fill for structural support, and excavation under a V-zone structure is prohibited. Manufactured homes are not permitted in the V-zone.

9. Floodplain Venting Affidavit

When foundation enclosures are vented by openings which may be closed off later, this form may be used to have the property owner acknowledge that flood vents must be maintained. Use of the form is particularly important when crawl space access doors are approved for use as flood vents. It provides documentation that the property owner was informed of the need to maintain the vents and the risk taken by altering the effectiveness of the vents.

10. Final Inspection Checklist

The file must be documented that a final inspection has been performed and the structure found to be compliant with all floodplain requirements before a certificate of occupancy is issued. This checklist provides a convenient way to meet the requirement. After the property is certified by an inspector, the form must be placed in the file.

F. Inspection of Floodplain Construction

Floodplain permits should receive special flagging to assure that floodplain requirements are reviewed during inspection. No matter how much care is taken in issuing permits, unless adequate inspection ensues, proper conformance is unlikely. The community must assure that adequate enforcement procedures are in place to ensure compliance with the ordinance requirements. Most communities have established building inspection procedures and floodplain compliance can easily be added to the inspection procedure. If a project is in the floodplain, the inspector must be familiar with floodplain requirements and keep the permittee informed of those which apply. Communities are expected to take action(s) to correct violations, and it is difficult to retrofit a structure that was not constructed properly.

The Elevation Certificate should be collected as soon as possible after the supporting members of the floor system are in place. Many communities have the inspector collect the Elevation Certificate during or just prior to the framing inspection. In this way, any deficiencies can be noted, and corrective action taken before the construction proceeds. Early inspection of the foundation walls should note the area and placement of water equalizing vents. The inspection report should show that the vents meet the requirements correspond to the calculations shown on the proposed building plans. Early notification that a technical basement cannot be created is important.

During final inspection, a careful check to determine that all electrical and mechanical devices are elevated to or above the FPE is necessary. Electrical distribution panel boxes must be two feet above the FPE. Water equalizing vents should be of a nature that they cannot be easily closed off by the homeowner. If the homeowner wishes to tape styrofoam to the back of the vent for insulation, this is permissible. All enclosed areas below the FPE must be equipped with vents that are no more than one foot above grade at the bottom, and will permit the automatic entry and exit of water.

An inspection report should be filed in the permit file before a Certificate of Compliance and Occupancy is issued and be available for review during Community Assistance Visits. It should note all deficiencies found and the recommended method of correction, along with dates. The Occupancy Certificate can be issued only after all errors in construction and installation of equipment are corrected and the building may not be occupied prior to its issuance. The Elevation Certificate must be in the permit file prior to issuance of an Occupancy Certificate.

G. Violations

Violations of floodplain regulations require the same action by local officials as violations of other established zoning and building codes. Any violation should be resolved as quickly as possible. Minor deficiencies, often easily corrected at the start of construction, may be very costly to correct once the project is complete. A community's eligibility in the NFIP is dependent upon the community making a good faith effort to enforce the floodplain management ordinance. By allowing any violation to go unabated, the community may cause problems of a precedential nature in enforcing future violations.

A local community may be held liable for issuing a permit that is not compliant with the ordinance or for not following prudent inspection and enforcement procedures. For instance, even though a new residential structure built in the floodplain with a basement below the FPE may be compliant with the issued building permit, it would not be compliant with the ordinance. This violation is subject to correction as a matter of ordinance enforcement, even if it is not a permit violation.

Upon detection of a violation, the contractor or owner should be informed immediately and given the opportunity to make the necessary corrections. A notice of the violation should be placed at the site. If the violation cannot be resolved informally after a reasonable time, the permittee and/or owner should receive written notice by certified mail, return receipt requested, of the violation, citing the applicable parts of the Ordinance being violated, the remedies required to abate the violation, and the date by which corrective action is required (usually about 30 days). If appropriate, further work should cease until the violation is corrected. Documentation of the nature and extent of the violation should be placed in the permit file and WRA notified of a plan of action to correct the violation, including deadlines. If the matter is not corrected within the time specified, a written notice of noncompliance should be sent as described before to the permit holder, with each additional day that lapses constituting an additional violation of the ordinance and the consequences of noncompliance described, including litigation. If the structure remains noncompliant, the permitting official should issue a "stop work" order and impose a fine for code violation. Litigation should be the last resort, after all other steps are properly documented as futile.

A community that has exhausted all means at its disposal to bring about compliance, but still cannot get the owner to comply, should consult WRA. In some cases, a Section 1316 sanction (from Part 73 of the NFIP Regulations, 44 CFR) may be imposed, allowing the Federal Insurance Administrator to deny flood insurance coverage to a structure which has been declared in violation of a local floodplain management ordinance. The violation may be to provisions which exceed the NFIP minimum criteria, but are contained in a local ordinance approved by FEMA. The denial of flood insurance may be used in conjunction with other actions taken by the community to remedy the violation. In extreme circumstances, it may be used to prevent probation or suspension of the community.

H. NFIP Sanctions

Participation in the NFIP requires the adoption of an ordinance with certain minimum criteria and its enforcement in the regulatory floodplain in return for the availability of flood insurance and other federal assistance. If a community fails to uphold and enforce its ordinance, FEMA can take sanctions against the community.

1. Probation

FEMA looks for "substantive and multiple" deficiencies and/or violations before undertaking probationary action. Probation entails a \$50 surcharge on all new and renewed flood insurance policies sold in that community and close monitoring of a community's progress towards correcting the problems that led to probation. Probation lasts for no less than one year and can be continued beyond that if necessary. Probation is the precursor to suspension from the NFIP.

Examples of deficiencies and violations which FEMA considers serious enough to place a community on probation might include: (1) failure to require or review adequately permits for floodplain development; (2) failure to enforce the floodplain management ordinance; (3) failure to correct violations of floodplain regulations, (4) variance procedures not consistent with NFIP criteria; and (5) administrative procedures which do not ensure compliance with NFIP regulations.

2. Suspension

Communities may be suspended from the NFIP for failure to correct any of the problems noted above during the probationary period. A community may be suspended without probation if its floodplain ordinance has not been updated as required. Suspension makes a community ineligible for the writing of flood insurance policies. The inability to purchase flood insurance severely restricts the availability of mortgages and other loans, federal grants, and disaster assistance.

3. Corrective Measures

In the event that a community is found to have deficiencies or violations, it will need to take appropriate action to correct them. This may include: (1) demonstrating that the structure is not in violation by providing missing certificates; (2) rescinding permits for structures not yet built or in early stages of construction; (3) demolishing or modifying the noncompliant structure or removing fill in the floodway; (4) seeking civil/criminal penalties as provided for in the local ordinance or community code; (5) initiating licensing actions against architects, engineers, builders, or developers responsible for the violations; (6) issuing declarations under Section 1316 of the NFIP regulations and submitting structure(s) for denial of flood insurance; or (7) submitting evidence that the structure cannot be cited due to legal constraints in State or local regulations or deficiencies in the ordinance. This may remedy the violation, but subject the community to other sanctions.

I. Variances

A variance, for NFIP purposes, is a grant of relief by a community from floodplain management regulations. It is granted for floodplain management purposes only; hence flood insurance will still be rated according to risk. A variance pertains to a piece of property and must not be personal in nature. A properly issued variance is granted for a parcel of property with physical characteristics so unusual that complying with the ordinance would create exceptional hardship on the applicant or surrounding property owners. The unique characteristics must pertain to the land itself, not the structure, its inhabitants, or the property owners.

The NFIP does not provide any absolute criteria for granting a variance, except in the cases cited below. The best policy is not to grant any variance to the NFIP minimum regulations unless it fits into the categories below, or there are compelling reasons. Individual discretion may be used when considering a variance to ordinance criteria which are more stringent than the NFIP requirements unless those criteria are established by State law or regulations. Specifically, NFIP regulations provide for the granting of a variance in the following situations:

- A structure individually listed on the Federal or State Register of Historic Places is not required to meet the elevation requirement when it is substantially improved, provided the modifications do not preclude the structure's continued designation as a historic structure; and
- A functionally dependent use, in which the use of the building is absolutely dependent on its close proximity to water, may be excluded from the elevation requirement, provided that acceptable methods of wet floodproofing are incorporated into the design.

In granting a variance, the following factors must be considered:

Factor 1 - Applicant must show good and sufficient cause for a variance. The cause must pertain to constraints of the property which would not allow reasonable use while meeting the requirements of the ordinance. The variance must not grant special benefits to the applicant not enjoyed by other floodplain residents.

Factor 2 - Applicant will suffer hardship if denied the variance. The hardship must pertain to the characteristics of the land itself, not personal hardship. Any physical characteristic of the land that would justify a variance to the flood elevation requirement is difficult to imagine.

Factor 3 - A variance will not cause increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with other State and local laws or ordinances.

Factor 4 - The variance granted must be the minimum necessary, considering the flood hazard, to afford relief. The greater the hazard, the less the relief that can be afforded. The variance must be modified to be the minimum that will both provide relief and preserve the integrity of the local ordinance. The resulting variance issued may be considerably less than that requested.

Factor 5 - Additional conditions may be added to mitigate any possible detrimental effects of granting the variance. Other property owners cannot be adversely affected in any material way.

2. Hardship and Variances

Hardship is the least understood and hardest to establish criterion for granting a variance. To determine whether an applicant has established an exceptional hardship sufficient to justify a variance, the local appeals board must weigh the hardship against the purpose of the ordinance. The floodplain ordinance is based on public safety and damage

reduction. If the variance requested is to waive or reduce the elevation requirement, the individual hardship must be weighed against the community's need to protect its citizens against the dangers and damages due to flooding. Only a truly exceptional and unique hardship should persuade a local board to set aside provisions of an ordinance designed with the entire community's safety in mind.

In many cases, the applicant should be advised to seek a variance to other standards that have less impact on public safety, such as lot line setbacks or height requirements. In many cases, the personal circumstances evoke compassion, but the hardship is not sufficient to justify deviation from the flood damage prevention requirements. A variance cannot be based on the personal or economic circumstances of the applicant. The effects of the variance often survive long after a personal hardship ceases to exist, and can create unforeseen flooding problems. Even if flooding does not occur, the salability of the property may be affected.

A variance to provide access for a handicapped person cannot be granted as an exceptional hardship because the problem is personal in nature and can be solved in other ways than not elevating. In addition, granting a variance in this case raises a critical public safety concern. A disabled person may be unable to evacuate the building during flooding, but may be able to survive the flood by remaining at home safely above the level of the flood waters, if the building is elevated properly. A variance would postpone, and perhaps increase, the personal hardship.

3. Insurance Rates

In considering a variance, the effects on flood insurance premiums should not be minimized. A structure at greater risk to flooding than the ordinance allows will be rated according to the risk. Premiums may be as high as \$25 for each \$100 of coverage. The community must notify the applicant in writing that the issuance of a variance to construct a structure below the BFE will result in increased premium rates and that such construction increases risks to life and property. This notification shall be maintained with a record of all variance actions. Since flood insurance is required by lenders, prohibitively high rates can result in a structure which is difficult or impossible to sell.

4. Fraud and Victimization

Buildings that are constructed below the elevation of the 100-year flood will probably remain part of the community for 50 to 100 years. During this time they remain subject to increased risk of damage from flooding and to higher flood insurance premiums. Fraud and victimization may occur if future owners who purchase the building are unaware that it is subject to increased risk and can be insured only at very high flood insurance rates. Therefore, the fact that the structure does not fully conform to the ordinance requirements and any conditions imposed upon the applicant in granting a variance should be recorded on the deed to the property or on a Declaration of Land Restriction so that a title search will disclose these facts.

5. State Regulations and Variances

Local authorities cannot grant variances to more restrictive state requirements or regulations. State criteria for granting variances differ from NFIP requirements. Therefore, all variance requests must be reviewed by the Maryland State NFIP Coordinating Office for consistency with NFIP and State regulations.

6. Summary

The duty of local governments to protect their citizens from flooding is so compelling, and the implications of the cost of insuring a structure below flood level are so serious, that variances from the 100-year flood elevation requirement should not be granted. A grant of relief from the one-foot freeboard may be considered, provided all variance criteria are met. Requests for variances to ordinance requirements must be evaluated according to the public safety function that the requirement serves and the additional risk granting a variance would generate. In some cases, variances to other zoning or code requirements may satisfy the need of the applicant, but have less public safety impact. The applicant should be advised to seek relief from these other requirements first.